

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MICHELLE GAZAVE

No. C 13-00063 RS

Plaintiff,

v.

**ORDER DENYING WITHOUT
PREJUDICE APPLICATION TO
PROCEED IN FORMA PAUPERIS,**

AARON PERSKY,

Defendant

Plaintiff seeks leave to proceed *in forma pauperis*, although no actual application appears in the docket. Pursuant to 28 U.S.C. § 1915, a district court may authorize the commencement of a civil action *in forma pauperis* if the court is satisfied that the would-be plaintiff cannot pay the filing fees necessary to pursue the action. 28 U.S.C. § 1915(a)(1). The court may deny *in forma pauperis* status, however, if it appears from the face of the proposed complaint that the action is frivolous or without merit. *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990); *Tripathi v. First National Bank & Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987).

As presently drafted, the complaint is without merit in that it fails to set forth a cognizable claim. The named defendant is a California Superior Court Judge who is alleged to have made incorrect rulings in a family law proceeding in Santa Clara Superior Court. To the extent plaintiff intends to assert a claim against the defendant individually, as a judge he is entitled to absolute immunity for the types of acts alleged. To the extent plaintiff is attempting to overturn the legal

1 rulings, there is no jurisdiction in this Court for such collateral attacks on state court decisions.
2 Accordingly, plaintiff's request to proceed *in forma pauperis* is denied without prejudice. If
3 plaintiff does not pay the filing fee by February 22, 2013, the Court will dismiss the action without
4 prejudice.

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6 IT IS SO ORDERED.

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10 Dated: 1/15/13


11 RICHARD SEEBORG
12 UNITED STATES DISTRICT JUDGE
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